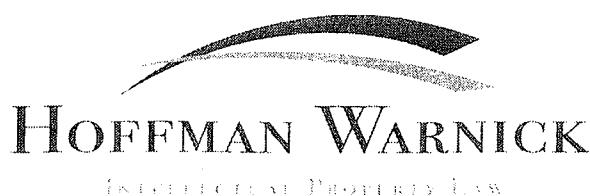


## **EXHIBIT “A”**



31 July 2009

Evident Technologies, Inc.  
Attn: Clinton T. Ballinger, CEO  
45 Ferry Street  
Troy, NY 12180

**CONFIDENTIAL - ATTORNEY/CLIENT COMMUNICATION**

**Re: PROSECUTION OF VARIOUS US AND FOREIGN PATENT APPLICATIONS**

Dear Clint:

Thank you for considering Hoffman Warnick LLC to provide you assistance in protecting your intellectual property. I am writing to provide you with an engagement agreement that includes an outline of the procedure and corresponding costs relating to patent procurement.

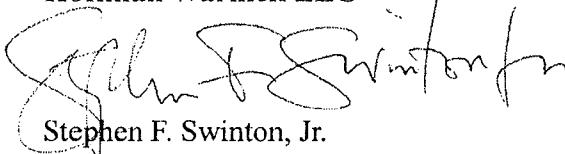
Please review the attached "Patent Procurement Summary and Cost Estimates" for an overview of the procedure for preparing and prosecuting a patent application. Also, I have attached a "Statement of Client's Rights and Responsibilities" and an "Engagement Terms and Conditions" for your review. This letter and the attached documents constitute an engagement agreement between Hoffman Warnick LLC and Evident Technologies, Inc ("Evident").

This letter will also serve as acknowledgement of Evident's provision of a retainer of \$6,000.00, paid earlier this month. Hoffman Warnick LLC has and will continue to charge against this retainer all attorney fees, government filing fees, foreign affiliate fees, costs, and disbursements associated with its provision of patent procurement services to Evident. Hoffman Warnick LLC will periodically require replenishment of this retainer as its funds are depleted.

I look forward to discussing with you further which services you would like us to provide. Please note the execution requirement on the following page. We look forward to working with you to secure patent protection for Evident's inventions.

Sincerely,

**Hoffman Warnick LLC**



Stephen F. Swinton, Jr.

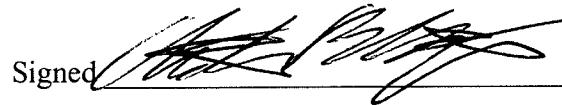
This letter and the attached documents constitute an engagement agreement between Hoffman Warnick LLC and Evident Technologies, Inc. Please have an authorized officer of Evident Technologies, Inc. review these documents, execute below, and return a copy of this letter to our offices.

I, the undersigned, have reviewed and understand the contents of:

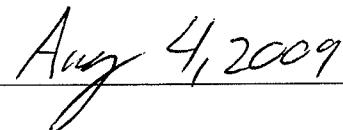
- a. This letter;
- b. The attached Patent Procurement Summary and Cost Estimates;
- c. The attached Engagement Terms and Conditions;
- d. The attached Statement of Client's Rights; and
- e. The attached Statement of Client's Responsibilities.

I agree to the terms and conditions outlined in these documents, and agree that the terms and conditions are fair and equitable.

Signed



Date



By Clinton T. Ballinger

Title Chief Executive Officer for Evident Technologies, Inc.

## **Patent Procurement Summary and Cost Estimates**

Patent procurement includes up to seven stages: A) provisional application; B) patent search and opinion; C) preparation and filing of U.S. patent application; D) filing of foreign application(s); E) prosecution and negotiation; F) allowance and issuance; and G) patent maintenance. Below is an outline of each of the stages and some of the costs that can be expected at each stage.

With respect to the costs included herein, these costs are subject to review and change by Hoffman Warnick LLC (HW) at any time without prior written notice. Further, the Government Fees quoted herein are subject to adjustments by the United States Patent and Trademark Office (USPTO) and foreign exchange rates.

### **A. Provisional Application**

In the United States, an inventor can file a provisional application, which reserves a filing date for the purposes of determining patentability, but which is not examined for obtaining a patent. The provisional application remains pending for one year from the filing date. During this year, a utility patent application must be filed if it is to claim the benefit of the provisional application filing date.

The provisional application provides several advantages, which may be desirable because: (1) it gives an earlier filing date without impacting the patent term of a possible patent; (2) the invention is “patent pending” while the provisional application remains pending; (3) it has a lower filing fee, and can be less formal than a utility patent application; and (4) it is not published, therefore you can maintain the “trade secret” status of an invention.

Some disadvantages to filing a provisional application are: (1) **another patent application must be filed in order to obtain a patent**; (2) it is not examined for patentability, and does not get the invention any closer to being examined; (3) a design patent application cannot claim the benefit of the filing date; and (4) the benefit of a provisional application with respect to foreign rights remains an open issue.

A provisional application is often used to meet a bar date for filing a patent application, to delay the prosecution of an invention (e.g., to market and/or develop the invention, postpone patent rights for anticipated higher royalties in the future, etc.), to obtain patent-pending status while the utility application is drafted and/or a search is performed, etc.

Should you desire, HW can file an invention disclosure prepared by you as a provisional application. In this case, HW cannot and does not warranty that the provisional application is a sufficiently complete and/or detailed description of your invention to meet the statutory requirements of a full, clear, and concise description of the invention and the best mode contemplated for carrying out the invention.

HW can provide assistance in preparing a provisional application. We can provide you with an estimate for such assistance based on your situation and our current hourly rates.

Attorney's fees for filing provisional application (prepared by client):	<u>\$800</u>
USPTO filing fee for provisional application (small entity):	<u>\$110</u>
Estimated <b>total</b> fees for filing a provisional application:	<u><b>\$910</b></u>

## **B. Patent Search and Opinion**

While strongly recommended, a patent search is NOT required before preparing and filing a utility patent application. The patent search can benefit HW in preparing the application since the invention can be compared and distinguished from similar inventions. Additionally, the search results can assist you in determining whether it is desirable to incur the costs of prosecuting the patent application.

If a search is requested, we will prepare a brief description of the invention with you and provide this description to our patent search affiliate. Our affiliate will perform a search of current patent records at the USPTO and provide us with one or more patents or published applications that are considered similar to the invention. We will review these references and provide you with our opinion as to the patentability of the invention.

It is important to recognize that with over seven million patents issued and tens of thousands of published applications, there is always the possibility that one or more patents or published applications that are pertinent may not be properly located when the search is performed. Additionally, the searcher exercises a great deal of subjectivity in performing the search, and there are inherent limitations in any search system. Furthermore, because of the extremely high number of unpublished patent applications currently pending within the USPTO, there is also a possibility that an unpublished application covering the concepts behind your invention may already be filed. Therefore, we cannot and do not guarantee that every pertinent reference will be located by this search.

Attorney's fees for preparation of search request and review of results:	<u>\$2,000-\$3,000</u>
Searcher's fees:	<u>\$600-\$900</u>
Estimated <b>total</b> fees for the search and opinion:	<u><b>\$2,600-\$3,900</b></u>

A typical search will take 1-2 months to complete. Rush services are available for an additional fee set by our search affiliate.

## **C. Preparation and Filing of U.S. Patent Application**

HW will review your invention disclosure, review any prior art, discuss the invention with the inventor(s), and prepare the following: a patent application including a specification, claims and drawings; a power of attorney/declaration of inventorship; a patent application transmittal; and an information disclosure statement (if necessary).

In general, it is most beneficial if preparation of a patent application can be scheduled at least three (3) months prior to the target filing date for the patent application. Additionally, once preparation of the application has begun, it is best if it completes in 2-3 weeks to ensure that the invention remains fresh in the professional's as well as inventor's minds. To this extent, HW requests that you identify any bar dates for inventions (e.g., public use, disclosure, offer for sale, and/or the like) and, when possible, provide HW with disclosures well in advance of any bar date. Additionally, HW requests that the inventor(s) provide prompt feedback of draft applications to ensure that a completed application can be obtained within the target time frame. Of course, should expedited preparation and filing be required, HW will seek to accommodate such requirements.

For some types of inventions, a design patent application may be desirable. A design patent application seeks patent protection for the ornamental appearance of an article (e.g., its shape and/or surface ornamentation applied to the article). If a design patent application is desired, HW strongly recommends the use of a draftsperson that is familiar with all of the USPTO requirements in submitting the drawings of the design.

If desired, HW also can prepare an Assignment of patent rights and record the Assignment document at the USPTO.

For an invention of minimal to moderate complexity, the preparation costs are generally in the range of:

Approximate attorney's fees for preparation of utility patent application: \$4,500-\$6,500

Approximate attorney's fees for preparation of design patent application: \$2,000

These fees do **not** include following costs:

Draftsperson Charges (if utilized) \$300-\$500

USPTO Filing Fee for Utility Patent Application (<= 20 claims, Small Entity): \$462

USPTO Filing Fee for Design Patent Application \$230

USPTO Fee for Recording Assignment: \$40

**Estimated total utility patent application costs (due prior to filing): \$5,002-\$7,002**

**Estimated total design patent application costs (due prior to filing): \$2,570-\$2,770**

Please keep in mind that the costs of preparing a utility patent application for an invention of higher complexity and/or having multiple embodiments will be higher.

## **D. Filing of Foreign Application(s)**

In order to obtain patent protection in any given nation, you must file a patent application and receive a patent in that nation. As a result, should you desire patent protection in one or more foreign nations, an additional application will be required for each nation.

HW requests that you inform us as soon as possible of any nation(s) in which you may desire to obtain patent protection. The requirements of many nation(s) differ from those of the U.S.; as a result, an earlier filing date may be required if protection in particular nation(s) is desired.

In general, there are two options for pursuing foreign patent protection. You can either: (1) file an application through the Patent Cooperation Treaty (PCT) and subsequently file a patent application in one or more desired nations/regions; or (2) file a patent application directly in a desired nation/region.

### **1. Patent Cooperation Treaty**

Over one hundred nations belong to the PCT. By filing a “PCT Request,” you can generally delay filing a national application in these nations by approximately two and a half years (30 months) from your earliest priority date (e.g., the filing date of a provisional application or the filing date of U.S. utility patent application, whichever is earlier). The PCT process only delays the national/regional process described below, it does not replace that process.

The estimated minimum cost for filing a PCT Request based on a previously prepared U.S. Patent Application is:

Attorney's fees for preparation and filing PCT Request (set fee): \$1,000

U.S. Government Filing Fee (approximate): \$3,000

Estimated **minimum** for filing PCT Request: **\$4,000**

The above filing fee can be higher or lower depending on the designated search office (US, South Korea, or Europe). Further, additional government fees are charged for each page of the request in excess of thirty (30) pages. As a result, the actual government fee incurred can be much higher.

Please keep in mind that the PCT Application only preserves your patent rights in the nations that are signatories to the Treaty. As a result, a national/regional application will still be required for these nations. Additionally, some nations, such as Taiwan and Argentina, are not signatories to the Treaty. For these nations, or any nation should you not desire to use the PCT process, a patent application may need to be filed before the one-year anniversary of your U.S. filing date in order to obtain a patent.

## **2. National/Regional Applications**

In addition to the PCT, many nations belong to smaller, regional treaties that provide examination on a regional basis. For example, many European nations belong to the European Patent Office. These regional treaties enable prosecution of the application to occur once for all of the signatory nations.

The costs for filing a national/regional patent application or entering the national/regional phase through the PCT for any given nation/region is entirely dependent upon the government fees set by the nation/region and the fees charged by our foreign affiliate. A nominal fee will be added by HW for forwarding reminders, docketing deadlines, reviewing requirements, etc. Further, for many nations/regions, additional fees will be incurred such as translation of the application into an appropriate language, annual maintenance fees to keep the application pending, and/or a separate government fee to request examination of the application. These additional fees alone can cost thousands of dollars for one nation/region.

As a result, costs for the nations/regions vary widely. We will provide you with an estimate for a particular nation/region should you desire to pursue patent protection in that nation/region.  
*Regardless, you should expect to pay tens of thousands of dollars for EACH nation/region in which you seek patent protection.*

### **E. Prosecution**

After filing, the next stage of patent procurement in any nation is prosecution and negotiation. It is important to recognize relative to this stage: 1) prosecution expenses are directly related to action taken by the particular patent office (e.g., USPTO) and are, therefore, not readily predictable; and 2) almost all patent applications are initially rejected in a letter from a patent office called an "office action," which requires a response. While we strive to reduce office actions, some applications receive more than one, and therefore, require more than one response.

For prosecution of the US application, when an office action is received, we will forward a copy to you for your review. Our letter will also identify the date by which a response must be filed. Subsequently, we can discuss your options for proceeding and the relative costs for each option.

An average prosecution period runs approximately two to five years, depending on the area of the invention. The following costs are typically experienced at the indicated times:

1-3 years after filing - response to a first office action: **\$1,600-3,000**

4-6 months after each response - potential response to subsequent office action: **\$900-3,000**

If you decide to abandon the application at any time, you will be responsible for the attorney's fees associated with reviewing an Office Action and discussing your options for proceeding.

Estimated **total** attorney's fees for prosecution: **\$2,500-6,000**

The fees provided for prosecution are typical for normal processing of a patent application at current rates. Again, please be aware that in some applications, more than two office actions are issued by the USPTO. Further, in certain cases, other fees will be sustained for additional services such as: restriction requirements, examiner's interviews, affidavits, interference proceedings, pre-appeal brief conferences, appeals, petitions, etc. When these services become necessary, we will provide you with specific estimates.

#### **F. Allowance and Issuance**

The next stage of patent procurement is the allowance and issuance of the patent. When a patent is allowed by the Patent Office, we will forward a copy of the Notice of Allowance to you. Additionally, HW will review the prosecution history to ensure that all requirements have been complied with. HW will also need to confirm your status as a small entity at this time. Subsequently, we will pay the issue fee.

Attorney's fees for payment of Issue Fee: **\$600**

USPTO Issue Fee (small entity): **\$755**

USPTO Publication Fee (if application published): **\$300**

Estimated **total** for payment of Issue Fee: **\$1,655**

Once a patent is issued, we will proof the first page of the patent and the text of the claims, as well as ensure that all paragraphs and drawings are included. Should an error be included that may impact the enforceability of the patent, we will submit a request for correction.

Proofing issued patent, correction of patent (if required): **\$300**

#### **G. Patent Maintenance**

Once a patent is issued, it is subject to U.S. government maintenance fees at 3.5, 7.5, and 11.5 years after the issue date. We will docket and attempt to send you a reminder before each maintenance fee is due. Should you desire, we will pay the maintenance fee. However, we cannot be responsible for failing to notify you or for non-payment of the maintenance fee. Accordingly, you should note these dates on your calendar and be sure to notify us of any address changes.

Attorney's fees for payment of Maintenance Fee: **\$300**

USPTO 3.5 year maintenance fee (small entity): **\$490**

USPTO 7.5 year maintenance fee (small entity): **\$1,240**

USPTO 11.5 year maintenance fee (small entity): **\$2,055**

## **Engagement Terms and Conditions**

These terms and conditions accompany a letter of engagement, which is furnished to you in accordance with Part 1215 of the Joint Rules of the Appellate Division of New York State. This letter confirms that you have engaged the services of Hoffman Warnick LLC (“the Law Firm”) to undertake legal services on your behalf. The following terms and conditions apply to the engagement described in the letter of engagement.

### **DUTY TO COOPERATE**

You agree to cooperate with the Law Firm in connection with the above-identified services. You agree to seriously consider all of the recommendations of the Law Firm. You agree to promptly reply to communications and inquiries from the Law Firm and its staff.

### **IDENTIFICATION OF CLIENT**

If you are signing the accompanying letter on behalf of a business entity, including a corporation, partnership, limited partnership, or similar entity, it is important that you be aware that the only client of the Law Firm is the business entity. The Law Firm does not, by representing the business entity, have an attorney-client relationship with you, or the business entity’s other individual executives, directors, partners, managing agents, shareholders, or other constituents, agents, or employees. Likewise, the Law Firm does not represent any person or entity that owns or controls the business entity, such as a parent corporation or general partner. The Law Firm also does not represent entities owned by the business entity, such as its affiliates or subsidiaries. Where the Law Firm represents a business entity as a client, the Law Firm’s professional responsibilities are to that business entity alone.

The Law Firm will gladly explore with you whether it can ethically also represent a person or entity associated or related to the client. However, the Law Firm will do so only by way of a separate written agreement.

### **NO GUARANTY OF ANY PARTICULAR RESULT**

You understand that in any disputed matter, there are differing opinions and conflicting facts and circumstances, as well as matters beyond the control of the Law Firm. Further, you understand that the efficacy of any patent, trademark registration, copyright registration, or the like, that issues is dependant upon the accuracy of the information given to the Law Firm by you regarding the invention, mark, work, or the like. The Law Firm makes absolutely no promise, representation or guaranty about or pertaining to the results or potential outcomes of any subsequent suit based on any patent, trademark registration, copyright registration, or the like obtained. The Law Firm shall be and remain obligated to exercise a reasonable degree of care and diligence in the work for you.

### **FEES AND PAYMENTS**

Our fees for the services outlined above will be billed upon completion of the work, unless otherwise agreed. Our fees will be calculated as a fixed fee and/or using the standard billing rate for each of the professionals performing the work. We will also bill any disbursements made on your behalf (e.g., government fees, affiliate charges, etc.).

Our fee is based upon the complexity of the work to be performed and our professional time to complete the work. Additionally, our fee is based on your cooperation. If information you provide is not timely or is incomplete, we reserve the right to charge additional fees and/or expenses for services required to obtain the necessary information in order to complete the work.

Invoices are due within 30 days of the date on the billing statement. If payment is not received by the due date, we reserve the right to assess interest charges of 1.5% per month on the unpaid balance.

#### **CONFLICTS**

We may represent clients in closely related technologies. While we strive to avoid subject matter conflicts, the nature of patent prosecution is such that they can arise inadvertently. If we determine that a conflict has arisen while we are prosecuting an application or patent on your behalf, you agree that we may withdraw from the representation after providing notice to you, the other client, and the United States Patent and Trademark Office.

In addition, you agree that we may disclose to the United States Patent and Trademark Office any public, published or generally known information you provide to us, if such disclosure is necessary in our opinion to satisfy our duty of candor for another client.

You acknowledge that we may make statements or present arguments during the prosecution of another client's patent application(s) that may concern your patent(s) and/or patent application(s). You agree that we may do so, even if we contend that patent(s) or patent application(s) you own do not disclose as broadly as the United States Patent and Trademark Office contends, or do not provide an enabling disclosure to claims we are prosecuting for another client. We will not, however, make such statements with respect to patent(s) or patent application(s) we have prosecuted or are prosecuting for you, absent further consent.

We may draft claims for another client that covers one or more of your products or services. You agree that we may do so unless we have represented you with respect to the claimed invention. Under no circumstances will we use your confidential information in doing so. We provide a range of services to other clients, including opinions concerning patent validity, infringement, or enforceability. We will not provide an opinion to another client concerning a patent that our firm prosecuted for you. Beyond that, you agree that we may provide an opinion to another client so long as we did not, as a result of our representation of you, acquire confidential information that could be used against you.

#### **TERMINATION**

If you or the Law Firm elect to terminate this engagement, you shall be required to immediately pay all expenses incurred by the Law Firm up to the date of termination.

#### **NO OTHER AGREEMENTS OR REPRESENTATIONS**

The Law Firm and you agree that there are no other agreements or representations between them about the subject matter of this engagement or any other matter and that these documents contain the entire understanding between the parties.

**PARTIAL INVALIDITY**

If any portion of this engagement is found to be illegal and/or unenforceable, the remainder of this engagement shall remain in full force and effect.

**GOVERNING LAW**

This engagement shall be construed in accordance with the law of the State of New York, USA.

**ARBITRATION**

In the event that a dispute arises between us relating to our fees, you may have the right to arbitration of the dispute pursuant to Part 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided to you upon request.

**Statement of Client's Rights**  
(As adopted by the Administrative Board of the Courts)

1. You are entitled to be treated with courtesy and consideration at all times by your lawyer and the other lawyers and personnel in your lawyer's office.
2. You are entitled to an attorney capable of handling your legal matter competently and diligently, in accordance with the highest standards of the profession. If you are not satisfied with how your matter is being handled, you have the right to withdraw from the attorney-client relationship at any time (court approval may be required in some matters and your attorney may have a claim against you for the value of services rendered to you up to the point of discharge).
3. You are entitled to your lawyer's independent professional judgment and undivided loyalty uncompromised by conflicts of interest.
4. You are entitled to be charged a reasonable fee and to have your lawyer explain at the outset how the fee will be computed and the manner and frequency of billing. You are entitled to request and receive a written itemized bill from your attorney at reasonable intervals. You may refuse to enter into any fee arrangement that you find unsatisfactory. In the event of a fee dispute, you may have the right to seek arbitration; your attorney will provide you with the necessary information regarding arbitration in the event of a fee dispute, or upon your request.
5. You are entitled to have your questions and concerns addressed in a prompt manner and to have your telephone calls returned promptly.
6. You are entitled to be kept informed as to the status of your matter and to request and receive copies of papers. You are entitled to sufficient information to allow you to participate meaningfully in the development of your matter.
7. You are entitled to have your legitimate objectives respected by your attorney, including whether or not to settle your matter (court approval of a settlement is required in some matters).
8. You have the right to privacy in your dealings with your lawyer and to have your secrets and confidences preserved to the extent permitted by law.
9. You are entitled to have your attorney conduct himself or herself ethically in accordance with the Code of Professional Responsibility.
10. You may not be refused representation on the basis of race, creed, color, age, religion, sex, sexual orientation, national origin or disability.

**Statement of Client's Responsibilities**  
(As adopted by the Administrative Board of the Courts)

Reciprocal trust, courtesy and respect are the hallmarks of the attorney-client relationship. Within that relationship, the client looks to the attorney for expertise, education, sound judgment, protection, advocacy and representation. These expectations can be achieved only if the client fulfills the following responsibilities:

1. The client is expected to treat the lawyer and the lawyer's staff with courtesy and consideration.
2. The client's relationship with the lawyer must be one of complete candor and the lawyer must be apprised of all facts or circumstances of the matter being handled by the lawyer even if the client believes that those facts may be detrimental to the client's cause or unflattering to the client.
3. The client must honor the fee arrangement as agreed to with the lawyer, in accordance with law.
4. All bills for services rendered which are tendered to the client pursuant to the agreed upon fee arrangement should be paid promptly.
5. The client may withdraw from the attorney-client relationship, subject to financial commitments under the agreed to fee arrangement, and, in certain circumstances, subject to court approval.
6. Although the client should expect that his or her correspondence, telephone calls and other communications will be answered within a reasonable time frame, the client should recognize that the lawyer has other clients equally demanding of the lawyer's time and attention.
7. The client should maintain contact with the lawyer, promptly notify the lawyer of any change in telephone number or address and respond promptly to a request by the lawyer for information and cooperation.
8. The client must realize that the lawyer need respect only legitimate objectives of the client and that the lawyer will not advocate or propose positions which are unprofessional or contrary to law or the Lawyer's Code of Professional responsibility.
9. The lawyer may be unable to accept a case if the lawyer has previous professional commitments which will result in inadequate time being available for the proper representation of a new client.
10. A lawyer is under no obligation to accept a client if the lawyer determines that the cause of the client is without merit, a conflict of interest would exist or that a suitable working relationship with the client is not likely.